



Briefing: Order in Council to defer NZ ETS animals-farmers' obligations - Approval to lodge Cabinet Paper

Date submitted: 25 September 2023

Tracking number: BRF-3890

Security level: Policy and Privacy

MfE priority: Not urgent

Actions sought from Ministers		
Name and position	Action sought	Response by
To Hon James SHAW Minister of Climate Change	Approval to lodge Cabinet paper on 28 September 2023	28 September 2023

Appendices
1. Cabinet paper

Key contacts at Ministry for the Environment			
Position	Name	Cell phone	First contact
Principal Author	Angela Christensen		
Responsible Manager	Hamish Slack	Section 9(2)(a)	✓

Minister's comments

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Key messages

1. On 14 August 2023, Cabinet agreed to progress the process for the making of an Order in Council (OiC) to defer New Zealand Emissions Trading Scheme (NZ ETS) obligations for animals–farmers.
2. Cabinet authorised you, as the Minister of Climate Change, to issue drafting instructions for the making of the OiC following consultation.
3. Cabinet also agreed to you, as the Minister of Climate Change, recommending to Cabinet the making of the OiC before the 2023 general election [CAB-23-MIN-0370 refers].
4. The Parliamentary Counsel Office has prepared the Order. The attached Cabinet paper seeks authorisation to submit the Order to the Executive Council.
5. Due to the tight timeframes the paper will need to go direct to Cabinet. We recommend that you lodge the paper on Thursday 28 September for the 2 October Cabinet meeting.
6. Note that the approval of the recommendation in this brief is subject to the Prime Minister agreeing to the Order being made [BRF-3680 refers].


Recommendations

We recommend that you:

- a. **approve** lodgement of the Cabinet paper on Thursday 28 September 2023 subject to the Prime Minister agreeing to:
 - i. approve the deferral of obligations for animals-farmers under the NZ ETS to 1 January 2026; and
 - ii. authorise you, the Minister of Climate Change, to issue drafting instructions to prepare an Order in Council [BRF-3680 refers].

Yes | No

Signatures

	
Hamish Slack Acting Manager Market Development Team 22/09/2023	Hon James SHAW Minister of Climate Change 25/09/2023

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Context

1. This briefing note seeks your approval to lodge the Cabinet paper (Appendix 1) on Thursday, 28 September for the 2 October Cabinet meeting.
2. On 14 August 2023, Cabinet agreed to progress the process for the making of an Order in Council (OiC) to defer New Zealand Emissions Trading Scheme (NZ ETS) obligations for animals–farmers. This included the following steps:
 - i consulting on progressing an OiC to defer these obligations under sections 2A(5D) and 2B of the CCRA and releasing the discussion document *Deferral of NZ ETS Reporting Obligations for Animals–Farmer Activities* for public consultation in August 2023;
 - ii the Minister of Climate Change progressing an OiC in August 2023 to defer animals–farmers becoming NZ ETS participants from 1 January 2024, subject to consultation;
 - iii authorising the Prime Minister, the Minister of Agriculture and the Minister of Climate Change to make final policy decisions on progressing the OiC;
 - iv authorising the Minister of Climate Change to issue drafting instructions for the OiC following consultation;
 - v the Minister of Climate Change recommending to Cabinet the making of the OiC before the 2023 general election [CAB-23-MIN-0370 refers].
3. Steps (i) through (iv) have been completed and the Parliamentary Counsel Office has now prepared the Order.
4. The final step in progressing the OiC is to recommend to Cabinet the making of the OiC prior to the 2023 general election. This final step is in accordance with s 2A(5D)(a) where the Governor-General may, by Order in Council, appoint a later date for the application of Subpart 4 of Part 5 of Schedule 3 (animals–farmer activities).

Next steps

5. A Cabinet decision is required to approve the OiC to submit to the Executive Council for approval by the Governor-General. The 2 October Cabinet meeting would provide the greatest likelihood of having the OiC in place prior to 1 January 2024, when NZ ETS obligations would commence.

Appendix 1- Cabinet paper
